

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

DERICK BRAGGS, §
§
Plaintiff, §
§
v. § Civil Action No. 4:18-cv-00568-O
§
ANDREW M. SAUL,¹ §
Commissioner of Social Security, §
§
Defendant. §

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is Plaintiff's Application for Attorney Fees under the Equal Access to Justice Act, ECF No. 20, filed on October 24, 2019. United States District Judge Reed O'Connor referred Plaintiff's Unopposed Motion to Enlarge Time to File a Motion for Attorneys' Fees under Section 406(b) of the Social Security Act and Brief in Support, ECF No. 17, and all related responses, replies, briefs in support, appendices, etc. to the undersigned by Order entered on September 4, 2019. ECF No. 18.

The Court finds, pursuant to 28 U.S.C. § 2412(d)(2)(A), that the appropriate hourly rate at which to award fees in this case is \$195.55 per hour for services performed in 2018 and 2019. The Court further finds that Plaintiff is entitled to attorney fees for compensation of 32.60 hours of service. Finally, the Court finds that Plaintiff is entitled to reimbursement of court filing fees of \$400.00 from the Department of Justice Judgment Fund. Noting that the Motion is unopposed, as reflected in Defendant's Response to Plaintiff's Application for Attorney's Fees under the Equal

¹ Andrew M. Saul is now the Commissioner of the Social Security Administration and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

Access to Justice Act, ECF No. 21, filed November 1, 2019, and for good cause shown, the undersigned **RECOMMENDS** that Judge O'Connor **GRANT** the Application, ECF No. 20.

Accordingly, the undersigned **RECOMMENDS** that Defendant be **ORDERED** to pay Plaintiff Derick Braggs, in care of Michael T. Kelly, an attorney, attorney fees under the Equal Access to Justice Act for 32.60 hours of service compensated at a rate of \$195.55 per hour for services performed in 2018 and 2019 plus \$400.00 in filing fees, for a total award of \$6,774.93.

A copy of this Findings, Conclusions, and Recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this Findings, Conclusions, and Recommendation must file specific written objections within 14 days after being served with a copy. *See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b)(1).* To be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's Findings, Conclusions, and Recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).

Signed December 10, 2019.



Hal R. Ray, Jr.
UNITED STATES MAGISTRATE JUDGE